



**STATE OF NEW JERSEY**

**FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION**

In the Matter of Jason Lombardi,  
Fire Lieutenant (PM1071V), Carteret

List Removal Appeal

CSC Docket No. 2019-3167

**ISSUED: AUGUST 16, 2019** (HS)

Jason Lombardi appeals the removal of his name from the eligible list for Fire Lieutenant (PM1071V), Carteret on the basis that he failed to respond to a priority provisional certification notice.

The appellant, a non-veteran, took and passed the promotional examination for Fire Lieutenant (PM1071V), which had a closing date of August 21, 2017. The resulting eligible list, consisting solely of the appellant's name, promulgated on November 22, 2018 and expires on November 21, 2021.

Agency records indicate that George Carpenter and Kevin Gomm received provisional appointments to the subject title, effective May 21, 2018.<sup>1</sup> On November 26, 2018, the appellant's name was certified from the PM1071V list to the appointing authority. In disposing of the November 26, 2018 certification, the appointing authority requested that the appellant's name be retained as the certification was incomplete and Carpenter and Gomm were serving provisionally in the subject title. Thereafter, the appellant indicated to this agency that he was willing to accept a provisional appointment to the title. Thus, a certification with the appellant's name was issued to the appointing authority on March 8, 2019 for a priority provisional appointment. *See N.J.A.C. 4A:4-4.2(c)2i.* In disposing of the March 8, 2019 certification, the appointing authority requested the removal of the appellant's name on the basis that he failed to respond to the certification notice.

<sup>1</sup> Agency records indicate that they continue to serve in this capacity.

On appeal to the Civil Service Commission (Commission), the appellant submits a sworn, notarized statement indicating that he did not receive the March 8, 2019 certification notice. He expresses his continued willingness to accept a provisional appointment.

In response, the appointing authority indicates that it did not receive a response to the certification from the appellant.

### CONCLUSION

*N.J.A.C.* 4A:4-4.7(a)6 provides that an eligible's name may be removed from a list for "non-compliance with the instructions listed on the notice of certification." *N.J.A.C.* 4A:4-6.3(b), in conjunction with *N.J.A.C.* 4A:4-4.7(d), provides that the appellant has the burden of proof to show by a preponderance of the evidence that an appointing authority's decision to remove his name from an eligible list was in error.

The appointing authority requested the removal of the appellant's name from the eligible list for Fire Lieutenant (PM1071V) on the basis of his failure to respond to the March 8, 2019 certification. However, the appellant has submitted a sworn, notarized statement, attesting that he did not receive the certification notice. While there is a presumption that mail correctly addressed, stamped and mailed was received by the party to whom it was addressed, the appellant has rebutted that presumption in submitting his sworn, notarized statement. *See SSI Medical Services, Inc. v. State Department of Human Services*, 146 *N.J.* 614 (1996); *Szczesny v. Vasquez*, 71 *N.J. Super.* 347, 354 (App. Div. 1962); *In the Matter of Joseph Bahun*, Docket No. A-1132-00T5F (App. Div. May 21, 2001). Thus, it is appropriate to restore the appellant's name to the subject eligible list. Further, since the appellant notes his continued willingness to accept a provisional appointment and Carpenter and Gomm continue to serve provisionally in the subject title, it is also appropriate to issue a new priority provisional certification to the appointing authority.

### ORDER

Therefore, it is ordered that this appeal be granted and the appellant's name be restored to the eligible list for Fire Lieutenant (PM1071V), Carteret for prospective employment opportunities.

It is further ordered that a priority provisional certification be issued to the appointing authority within 20 days of the issuance of this decision.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE  
CIVIL SERVICE COMMISSION ON  
THE 14<sup>TH</sup> DAY OF AUGUST, 2019



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